

species 5-Amino-2[(1-benzyloxycarbonylamino-2-methyl-propyl)-hydroxy-phosphinyloxy]-pentanoic acid. This compound is disclosed as Example 1 on pages 25-27 of the instant specification. The claims of restriction group I that read on this species are 1, 6, 9, 18 and 20. However, it is expected that additional claims in restriction group I will come into play once the Examiner's search has been expanded (see next paragraph).

It is Applicants' understanding and expectation, based on the Examiner's statement on, for example, page 3 of the Office Action, that the election of a species will serve as a basis for the identification and examination of subject matter directed to "a generic concept, inclusive of the elected species." Thus, it is Applicants' expectation that a reasonable subgenus of compounds will ultimately be examined on the merits in the next Office Action.

Furthermore, it is Applicants' understanding and expectation that, once allowable subject matter is identified with respect to products, the Examiner will reinstate method-of-treatment claims employing said products. This expectation is appropriate, particularly in view of the fact that the instant application, as the U.S. National Stage of an International application, should rightly have had any assessment of possible multiple inventions made in light of PCT unity of invention

criteria. The method for determining unity of invention under Rule 13 is to be construed as permitting the inclusion of several combinations of claims of different categories in the same application. One of these combinations, set forth in MPEP Annex B, Part 1 (e)(i) is "in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product."

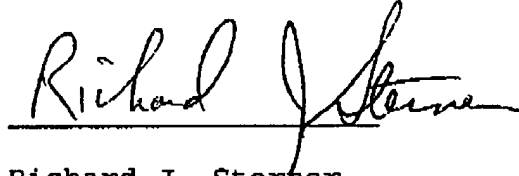
It should also be pointed out that reinstatement of method-of-treatment claims would be appropriate even if U.S. restriction practice were applicable.

In light of some of the above considerations, Applicants have not, despite their election herein of a restriction group and a particular species therein, formally cancelled any of the nonelected claims. Rather, it is deemed proper to wait until agreement has been reached with respect to allowable subject matter in restriction group I and a further decision is rendered regarding reinstatement of subject matter encompassed by one or more of the other restriction groups.

No other fees should be due in connection with this communication. However, should it be determined that a fee is required for any reason, the Assistant Commissioner is hereby authorized to charge it to Deposit Account No. 23-1703.

Dated: May 24, 2002

Respectfully submitted,



Richard J. Sterner  
Reg. No. 35,372

Applicants' Agent  
Customer Number 007470  
(212) 819-8200

Agent's Direct Line:  
(212) 819-8783